

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NVR, Inc.,	:	Case No. 2:18-cv-1335-NR
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Majestic Hills, LLC; JND Properties,	:	
LLC.; Pennsylvania Soil and Rock	:	
Incorporated; Mark R. Brashear;	:	
Alton Industries, Inc.; Joseph N.:	:	
DeNardo d/b/a J.N.D. Properties; and	:	
Shari DeNardo,	:	
	:	
Defendants,	:	
	:	
v.	:	Related to Doc. No. 312
Strnisha Excavation, Inc. and	:	
Morris Knowles & Associates, Inc.,	:	
	:	
Third Party Defendants.	:	Document No.

MOTION FOR LEAVE TO FILE BRIEF IN SUPPORT OF MOTION FOR
STAY AS *AMICI CURIAE*

Pursuant to this Honorable Court’s inherent authority *Amici Curiae* herein respectfully move this Honorable Court for leave to file the accompanying brief, attached hereto as Exhibit 1, in support of the Motion for Stay.¹ *Amici Curiae*

¹ In the Third Circuit, and sister Circuits, district courts have inherent authority to appoint or deny amici. *E.g.*, *Harris v. Pernsley*, 820 F.2d 592, 603 (3d Cir. 1987); *United States ex rel. Gudur v. Deloitte Consulting Llp*, 512 F. Supp. 2d 920, 2007 U.S. Dist. LEXIS 18297 (S.D. Tex. 2007), *aff’d*, 2008 U.S. App. LEXIS 17038 (5th Cir. Aug. 7, 2008); *see also CSX Transp., Inc. v. City of Phila.*, No. 04-CV-5023, 2005 U.S. Dist. LEXIS 14300 *1, *18 (E.D. Pa. July 15, 2005). As the Third Circuit Court of Appeals noted in *Neonatology Associates*, only a “small body” of judicial opinions indicate a disfavoring of amici briefs. 293

homeowners are Jeffery and Christine Swarek, Jeanne Hecht, Rajiv and Namrata Bhatt, Brian and Jessica Sanders, Suzanne and Douglas Grimes, and Elizabeth and Christopher Phillips (hereinafter “Homeowners”). The Homeowners all had their homes lost or affected by the Majestic Hills landslide, with three of the homes demolished, one of the homes condemned as unlivable, and two of the homes otherwise affected. By all accounts, the Homeowners have suffered tremendous losses.

While not parties to the instant proceedings, the Homeowners all filed lawsuits which are now part and parcel of the Majestic Hills, LLC Bankruptcy proceedings. As it stands now, the September 27-28, 2021, Hearing on the Bankruptcy Plan Confirmation is the closest the Homeowners have been to resolution of their disputes and receiving compensation for their losses since the landslide took or affected their homes and uprooted their lives back in 2018.

Many of the moving parties to the Motion for Stay are contributing parties to the monetary elements of the Bankruptcy Plan that, if confirmed, would allow the Homeowners to get compensation for their losses and move on with their lives.

F.3d 128, 130 (citing *National Org. for Women, Inc. v. Scheidler*, 223 F.3d 615 (7th Cir.2000); *Ryan v. CFTC*, 125 F.3d 1062 (7th Cir.1997) (single judge opinion); *Liberty Lincoln Mercury, Inc. v. Ford Marketing Corp.*, 149 F.R.D. 65, 82 (D.N.J.1993); *Yip v. Pagano*, 606 F.Supp. 1566, 1568 (D.N.J.1985)). Consideration of this brief is proper because Homeowners have a significant interest in the Defendants’ Motion for Stay, the brief is desirable and helpful in determining whether the Motion for Stay should be granted, and the brief is relevant to the instant motion. *Neonatology Assocs., P.A. v. Commissioner*, 293 F.3d 128, 131 (3d Cir. 2002).

Without a stay of the instant matter, the Homeowners are concerned that the expenditure of additional monies by those contributing parties, in order to proceed with discovery and comply with this Honorable Court's Case Management Order, will adversely affect the ability of the Homeowners to have the Bankruptcy Plan confirmed and receive compensation for their losses.

The world is not being asked for – only a short stay of this Honorable Court's case management order to allow for all involved, the moving parties, the opposing party, and the within *amici* parties, to have a Bankruptcy Plan confirmation hearing without the financial ramifications, as outlined in the Motion for Stay, impacting, or potentially impacting, the ability to have the Bankruptcy Plan confirmed. A stay would promote judicial economy and the financial welfare of the Homeowners, of which amici would submit they, the Homeowners, are the most financially vulnerable and hardest hit of all the persons/entities involved in the landslide, even if not the largest, in terms of dollars, claim on record. Thus, the Homeowners respectfully request this Court grant Defendants' Motion for Stay for the next 60 days until the Bankruptcy Plan hearing occurs and the Plan is either confirmed or denied.

WHEREFORE, we respectfully request that this Court grant leave to file an amicus curiae brief in support of Defendants' Motion for Stay.

Respectfully submitted,

/s/ John B. Cromer

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Majestic Hills, LLC; JND Properties, LLC;	:	
Pennsylvania Soil and Rock Incorporated;	:	
Mark R. Brashear; Alton Industries, Inc.;	:	
Joseph N.: DeNardo d/b/a J.N.D. Properties;	:	
and Shari DeNardo,	:	
	:	
Defendants,	:	
	:	
v.	:	Related to Doc. No. 293-294
	:	
Strnisha Excavation, Inc. and Morris	:	
Knowles & Associates, Inc.,	:	Document No.
	:	
Third Party Defendants.	:	

CERTIFICATE OF SERVICE

I, John B. Cromer, Esquire, on behalf of the *Amici* Homeowners, hereby certify that I filed the within *Motion for Leave to File Brief as Amici Curiae* electronically using the ECF system, and the same is available for viewing and downloading by the following counsel of record:

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